

## REMARKS

By this Amendment, Applicants amend claims 1 and 9 and cancel claims 4 and 12, without prejudice or disclaimer of the subject matter thereof. Claims 1-3, 5-11, and 13-16 remain currently pending.

In the Office Action, the Examiner rejected claims 1, 4, 9, and 12 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2002/0138643 to Shin et al. ("Shin") in view of U.S. Patent No. 7,124,438 to Judge et al. ("Judge"); rejected claims 2-6, 8, 10-14, and 16 under 35 U.S.C. § 103(a) as being unpatentable over Shin in view of Judge and U.S. Patent No. 6,986,139 to Kubo ("Kubo"); and rejected claims 7 and 15 under 35 U.S.C. § 103(a) as being unpatentable over Shin in view of Judge and Kubo, and further in view of U.S. Patent No. 7,107,619 to Silverman ("Silverman").<sup>1</sup>

Applicants thank the Examiner for conducting an in-person interview with Applicants' undersigned representative. The rejection of claims 1, 4, 9, and 12 was discussed during the interview. Applicants' undersigned representative and the Examiner also discussed amending claims 1 and 9 to incorporate the subject matter of claims 4 and 12. The Examiner orally agreed that claims 1 and 9 so amended should be allowable. Applicants respectfully traverse the above rejections under § 103(a).

However, to expedite the prosecution of this application, Applicants have amended independent claims 1 and 9 to incorporate the subject matter of claims 4 and 12, respectively, as discussed during the interview. Amended claims 1 and 9 are

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<sup>1</sup> The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the Office Action.

therefore allowable over the applied prior art references at least because Shin and Judge, over which claims 1, 4, 9, and 12 stand rejected, do not teach or suggest features recited in claims 4 and 12.<sup>2</sup>

Additionally, neither Kubo nor Silverman overcome the deficiencies of Shin and Judge. Accordingly, Applicants respectfully request withdrawal of the Section 103(a) rejection of claims 1-3, 5-11, and 13-16. Because claims 4 and 12 have been canceled, the Section 103(a) rejection of claims 4 and 12 is moot.

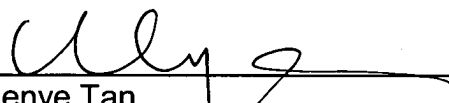
In view of the foregoing amendments and remarks, Applicant respectfully requests reconsideration of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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GARRETT & DUNNER, L.L.P.

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By:   
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<sup>2</sup> Neither do the applied prior art references teach or suggest features of claims 1 and 9, such as "at least one server load calculation unit configured to obtain a load state of said server computer by using measurements of said request measurement unit and said response measurement unit; and a data request transfer unit configured to change a rate of the number of data requests based on the load state determined by said server load calculation unit," as recited in claim 1.